

## PENNSYLVANIA

*Specific requirement to report sexual assault? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? It is mandatory to report injuries caused by criminal acts unless the injuries were caused by domestic violence.*

*Additional statutes that may impact competent adult victims of sexual assault? It is mandatory to report gunshot wounds.*

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### STATUTES ADDRESSING PAYMENT FOR EXAMINATIONS

#### **18 P.S. § 11.707. Awards**

(a) REQUIREMENTS.-- No award shall be made unless it is determined by a preponderance of the evidence that:

(1) A crime was committed.

(2) The person injured or killed was a direct victim or intervenor.

(3) The crime was promptly reported to the proper authorities. In no case may an award be made if the record shows that the report was made more than 72 hours after the occurrence of the crime unless:

(i) the victim is under 18 years of age at the time of the occurrence of the crime and the alleged offender is the victim's parent or a person responsible for the victim's welfare, an individual residing in the same home as the victim or a paramour of the victim's parent;

or

(ii) the Office of Victims' Services finds the delay to have been justified, consistent with bureau regulations.

(4) The direct victim, intervenor or claimant has fully cooperated with all law enforcement agencies and the Office of Victims' Services unless the Office of Victims' Services finds the noncompliance to have been justified consistent with Office of Victims' Services regulations.

(A.1) PROTECTION FROM ABUSE.-- A claimant who satisfies the eligibility requirements of subsection (a)(1), (2) and (4) may satisfy the eligibility requirement under subsection (a)(3) for

reporting a crime to the proper authorities by commencing an action brought in accordance with 23 Pa.C.S. Ch. 61 (relating to protection from abuse) and as provided for in the Pennsylvania Rules of Civil Procedure. In no case may an award be made if the record shows that the petition was:

(1) Withdrawn, unless the Office of Victim Services finds the withdrawal to have been justified, consistent with regulations of the Office of Victim Services.

(2) Filed more than 72 hours after the occurrence of the criminal conduct leading to the commencement of the action, unless:

(i) the victim is under 18 years of age at the time of the occurrence of the criminal conduct and the alleged offender is the victim's parent or a person responsible for the victim's welfare, an individual residing in the same home as the victim or a paramour of the victim's parent; or

(ii) the Office of Victim Services finds the delay to have been justified, consistent with regulations of the Office of Victim Services.

(b) AMOUNT.--

(1) Any award made under this chapter shall be in an amount not exceeding out-of-pocket loss, together with loss of past, present or future earnings or support resulting from such injury. In no case shall the total amount of an award exceed \$ 35,000 except for payment of the following:

(i) counseling, the maximum amount of which shall be in accordance with paragraph (4.1);

(ii) forensic rape examination and medications directly related to the sexual assault or rape, the amount of which shall not exceed \$ 1,000; or

(iii) reasonable and necessary costs of cleaning the crime scene of a private residence, the amount of which shall not exceed \$ 500.

(2) An award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter, be in an amount equal to the actual loss sustained. The following shall apply:

(i) No such award shall exceed the average weekly wage for all persons covered by the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L. 2897, No. 1), known as the Unemployment Compensation Law, in this Commonwealth as determined annually by the Department of Labor and Industry for each week of lost earnings or support.

(ii) Except as set forth in subparagraph (iii), the aggregate award for the loss shall not exceed \$ 15,000.

(iii) In the case of death of a direct victim or intervenor, the aggregate award shall not exceed \$ 20,000.

(3) If an order of restitution has been entered on behalf of the direct victim, those amounts actually collected shall be applied first to property losses incident to the crime and secondly to personal injury losses as set forth in subsection (f).

(4) An award for counseling performed by or under the supervision of a psychiatrist, psychologist, licensed professional counselor or licensed social worker and subject to the provisions of paragraph (4.1) may be made to:

- (i) a direct victim;
- (ii) an individual responsible for the direct victim's welfare;
- (iii) an individual who is physically present at the crime scene and witnesses a violent crime;
- (iv) in the case of a homicide, an individual who discovers the body;
- (v) anyone related to the direct victim within the second degree of consanguinity or affinity;
- (vi) anyone maintaining a common-law relationship with the direct victim;
- (vii) anyone residing in the same household with the direct victim; or
- (viii) anyone engaged to be married to the direct victim.

(4.1) In the case of an award made pursuant to paragraph (4), the following shall apply:

(i) The amount of an award under paragraph (4)(i) shall not exceed \$ 5,000 where the direct victim is an adult and shall not exceed \$ 10,000 where the direct victim is a minor.

(ii) The amount of an award under paragraph (4)(ii), (v), (vi), (vii) or (viii) shall not exceed \$ 2,500 except in the case of a homicide whereby the amount of this award shall not exceed \$ 5,000.

(iii) The amount of an award under paragraph (4)(iii) or

(iv) shall not exceed \$ 1,500.

(5) An award for the reasonable and necessary costs for the replacement of prosthetic devices, wheelchairs, canes, walkers, hearing aids, eyeglasses or other corrective lenses, dental devices or

prescription medications damaged or stolen as a result of the crime shall be at a rate set by the Office of Victims' Services. Expenses for prosthetic devices, wheelchairs, canes, walkers, hearing aids, eyeglasses or other corrective lenses, dental devices or prescription medications needed as a result of the crime shall be counted against the \$ 35,000 award limitation.

(c) PUBLIC ASSISTANCE.--PROVISIONS OF AWARDS MADE PURSUANT TO A STATUTE COMPENSATING OR BENEFITING A DIRECT VICTIM OR CLAIMANT SHALL IN NO WAY AFFECT THE CLAIMANT'S OR DIRECT VICTIM'S ELIGIBILITY UNDER PUBLIC ASSISTANCE OR ANY OTHER FEDERAL OR COMMONWEALTH SOCIAL BENEFIT OR ASSISTANCE PROGRAM.

(d) APPORTIONMENT.--IF THERE ARE TWO OR MORE INDIVIDUALS ENTITLED TO AN AWARD AS A RESULT OF THE DEATH OF A DIRECT VICTIM OR INTERVENOR, THE AWARD SHALL BE APPORTIONED AMONG THE CLAIMANTS.

(e) REDUCTION.--EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, AN AWARD MADE UNDER THIS CHAPTER SHALL BE REDUCED BY THE AMOUNT OF ANY PAYMENTS RECEIVED OR TO BE RECEIVED BY THE CLAIMANT AS A RESULT OF THE INJURY:

- (1) from or on behalf of the individual who committed the crime;
- (2) under any insurance or health and welfare programs, including those mandated by law;
- (3) under any contract of insurance wherein the claimant is the beneficiary;
- (4) from public funds;
- (5) as an emergency award under section 706;
- (6) under any pension program, including those providing for disability or survivor's benefits; or
- (7) under a settlement or award made by or on behalf of a party alleged to be responsible in whole or in part for the injury, without regard to the party's criminal culpability.

(f) DIRECT VICTIM RESPONSIBILITY.--

(1) Except as set forth in paragraphs (2) and (3), in determining the amount of an award, the Office of Victims' Services shall determine whether the direct victim or intervenor, because of conduct, contributed to the infliction of the injury. The Office of Victims' Services shall reduce the amount or deny the claim altogether in accordance with the determination.

(2) If the crime involved is rape or sexual assault, the conduct of the direct victim shall not be considered. If the crime involved is related to domestic violence, the conduct of the direct victim shall not be considered unless the direct victim was the primary aggressor.

(3) If the crime involved is a homicide, the conduct of the direct victim shall not be considered for claims by eligible claimants for counseling.

(g) INTERVENOR RESPONSIBILITY.--IN DETERMINING THE AMOUNT OF AN AWARD TO AN INTERVENOR, THE OFFICE OF VICTIMS' SERVICES MAY CONSIDER WHETHER THE INTERVENOR, BECAUSE OF CONDUCT, CONTRIBUTED TO THE INFLECTION OF THE INJURY. THE OFFICE OF VICTIMS' SERVICES SHALL REDUCE THE AMOUNT OR DENY THE CLAIM ALTOGETHER IN ACCORDANCE WITH THE DETERMINATION.

(h) FORENSIC RAPE INVESTIGATION.--

(1) A hospital or other licensed health care provider may submit a claim for reimbursement for the cost of a forensic rape examination if the cost is not covered by insurance or if the victim requests that the insurance carrier not be billed. Upon filing of a claim, the Office of Victims' Services shall promptly notify the prosecutor of the county where the crime is alleged to have occurred. The reimbursement, where applicable, shall be at a rate set by the Office of Victims' Services.

(2) The cost of a forensic rape examination and the cost of medications prescribed to the direct victim shall not be charged to the victim.

(3) A sexual assault or rape victim need not be an applicant for any other compensation under this chapter.

## REPORTING STATUTES WHICH MAY IMPACT RAPE VICTIMS

### **18 Pa.C.S. § 5106. Failure to report injuries by firearm or criminal act**

(a) OFFENSE DEFINED.-- Except as set forth in subsection (a.1), a physician, intern or resident, or any person conducting, managing or in charge of any hospital or pharmacy, or in charge of any ward or part of a hospital, to whom shall come or be brought any person:

(1) suffering from any wound or other injury inflicted by his own act or by the act of another which caused death or serious bodily injury, or inflicted by means of a deadly weapon as defined in section 2301 (relating to definitions); or

(2) upon whom injuries have been inflicted in violation of any penal law of this Commonwealth; commits a summary offense if the reporting party fails to report such injuries immediately, both by

telephone and in writing, to the chief of police or other head of the police department of the local government, or to the Pennsylvania State Police. The report shall state the name of the injured person, if known, the injured person's whereabouts and the character and extent of the person's injuries.

(A.1) EXCEPTION.-- In cases of bodily injury as defined in section 2301 (relating to definitions), failure to report under subsection (a)(2) does not constitute an offense if all of the following apply:

(1) The victim is an adult and has suffered bodily injury.

(2) The injury was inflicted by an individual who:

(i) is the current or former spouse of the victim;

(ii) is a current or former sexual or intimate partner of the victim;

(iii) shares biological parenthood with the victim; or

(iv) is or has been living as a spouse of the victim.

(3) The victim has been informed:

(i) of the duty to report under subsection (a)(2); and

(ii) that the report under subsection (a)(2) cannot be made without the victim's consent.

(4) The victim does not consent to the report under subsection (a)(2).

(5) The victim has been provided with a referral to the appropriate victim service agency such as a domestic violence or sexual assault program.

(b) IMMUNITY GRANTED.-- No physician or other person shall be subject to civil or criminal liability by reason of complying with this section.

(c) PHYSICIAN-PATIENT PRIVILEGE UNAVAILABLE.-- In any judicial proceeding resulting from a report pursuant to this section, the physician-patient privilege shall not apply in respect to evidence regarding such injuries or the cause thereof. This subsection shall not apply where a report is not made pursuant to subsection (a.1).

(d) REPORTING OF CRIME ENCOURAGED.-- Nothing in this chapter precludes a victim from reporting the crime that resulted in injury.

RAPE REPORTING REQUIREMENTS FOR COMPETENT ADULT VICTIMS

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(e) AVAILABILITY OF INFORMATION.-- A physician or other individual may make available information concerning domestic violence or sexual assault to any individual subject to the provisions of this chapter.